

REMARKS

Claim 1 has been amended to incorporate the limitations of original claims 14 and 23. Claims 14 and 23 have been cancelled, and claim 24 was amended to now depend from claim 1.

Claims 1-3, 5-16, 18, 19 and 22-25 stand rejected under 35 § 103(a) as being unpatentable over Court et al. (French Patent 2,772,038) in view of Okada (US 5,418,275). Applicant is aware of the Court et al. patent, as it was 100% commonly owned by Applicant at the time of the invention, and involves the same inventor. Applicant has attached an English Translation of the '038 reference.

In the Examiner's March 3, 2005 Communication to Applicant, the Examiner had found that "The rejection ...under 35 U.S.C. §103 relying on Court et al. has been withdrawn since it is the position of the Examiner that no *prima facie* case of obviousness can be made over this patent against the instant claims. The present rejection is a combination of the Court reference with the Okada reference.

The cited references fail to teach or suggest all of the claim limitations of the present (amended) invention, and therefore fail to present a *prima facie* case of obviousness under 35 §103(a). Specifically, the cited references fail to teach or suggest a) 99 to 65% of a rigid material based on PPO and a polystyrene in which the ratio of PPO to polystyrene polymer weight ratio is between 3/7 and 7/3, b) 1 to 35% of an impact modifier having an S-B-M block polymer in which the S block of is compatible with the resin mixture.

The FR '038 reference states on page 16, line 34 of the English translation, that the matrix polymer can also contain additional thermoplastic polymer(s) being present in an amount of less than 10% of the total mass of thermoplastic resin(s). Applicant's amended claimed material consists essentially of 65 – 99% resin, and that resin has a weight ratio of

PPO to polystyrene of from 3/7 to 7/3. Thus, by simple math, the lowest amount of PPO present in the material of Applicant's amended claims is $65\% \text{ total} \times 30\% \text{ PPO} = 19.5\%$. This level is well above, and would not be obvious from, the less than 10% PPO described in the FR '038 reference.

US 5,418,275

The US 5,418,275 reference is cited by the Examiner as a secondary reference to show the benefits of a blend of polystyrene and syndiotactic polystyrene. In the '275 reference, any PPO is grafted onto a rubbery elastomer. The PPO of Applicant's amended claims is shown and described on pages 3 and 4 of Applicant's Specification. It is NOT grafted to a rubbery elastomer as described in the '275 reference. One of skill in the art would not be led to practice Applicant's amended claims by the disclosure of a PPO grafted to a rubbery elastomer.

Applicant agrees that the '038 reference discloses a blend of polystyrene and less than 10% of syndiotactic polystyrene. However, as described in the '038 reference, such a thermoplastic resin blend is not compatible with the "C" block taught in the '038 reference. The Examiner argues that if the incompatibility referred to by the references means incompatibility in the absence of a compatibilizer – yet it is a block of the compatibilizer that the reference describes as in compatible.

Thus, one of two things must be true of the combination of the '038 and '275 references:

1) based on the '038 reference, one would not expect the syndiotactic polystyrene/PPO blend of the '275 reference to change the incompatibility of the "C" block and thermoplastic resin. In this case, the thermoplastic resin is incompatible with the "C" block – which is the opposite of Applicant's claim requirements that the "S" block and thermoplastic resin be compatible. OR,


2) The '275 syndiotactic polystyrene/PPO blend somehow becomes compatible with the "C" block (which is not expected) – which would mean the proposed modification of the '038 reference by the '275 reference would render the prior art unsatisfactory for its intended use, and therefore the references cannot be combined under MPEP 2134.

Either way, the '275 reference fails to heal the defects of the '038 reference as 35 C.F.R. §103 (a) prior art against the present (amended) claims. Moreover the modifier of the '275 art is a PPO modified rubber, rather than a tri-block polymer.

Because of the above reasons, the cited art fails to present a *prima facie* case of anticipation under 35 U.S.C. §102(b) of the claims as amended.

Examination and allowance of the amended claims are earnestly solicited.

Respectfully submitted,



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